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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/851,065	05/07/2001	Thierry Cruanes	50277-1522	2871
29989	7590	09/23/2004	EXAMINER	
HICKMAN PALERMO TRUONG & BECKER, LLP			BANANKHAH, MAJID A	
1600 WILLOW STREET			ART UNIT	
SAN JOSE, CA 95125			PAPER NUMBER	
			2127	

DATE MAILED: 09/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/851,065

Applicant(s)

CRUANES ET AL.

Examiner

Majid A Banankhah

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 5/7/01 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

1. This office action is in response to response filed on May 07, 2001. In response to the previous office action and the rejection of claims 1-24 under 35 U.S.C. 103 (a), Zait in view of Baru, Applicant in his remarks argue that at the time the claimed invention of the present application was made, both Zait and the claimed invention were owned or subject to an obligation of assignment to Oracle International Corporation, and therefore, under 35 U.S.C. (c), Zait cannot preclude patentability of the present application under 35 U.S.C. 103 (a). Examiner hereby withdraw the rejection of claims 1-24 under 35 U.S.C. 103(c). However, since there is a common inventor between the two inventive entities of the application and the reference of Zait, the claims of the present application are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims of U.S. Patent No. Zait et al in view of Passera, see section 2 and 3 below.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

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A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-24 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-72 of U.S. Patent No. 6,665,684 ('684') issued to Zait in view of U.S. Patent No. 6,415,286 ('286') issued to Passera.

Although the conflicting claims are not identical, they are not patentably distinct from each other. For example, claims 1 and 11 of the present application is a method claim that has same limitations as recited in claims 1 of the '684' application except, the claim of '684' does not teach increasing the degree of parallelism by parallel partitioning. On other words, fails to teach of partitioning in the parallel processing environment. Zait also does not teach assigning the partition levels from the second set of partition levels to slave process. However, the reference Passera teaches assigning computational processes in a parallel partitioning scheme to a slave process, for the reason to reduce the overhead related o communication in an attempt to distribute the computation of processes relatively evenly among the processes (passera, Abstract, col. 6, lns. 12-22, and col. 9, lns. 10-24). Therefore, It would have been obvious for one ordinary

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skill in the art at the time the invention was made to modify and use parallel partitioning and assigning the second level partitions to separate slave processes of Passera to the partitioning method of Zait in order to distribute the computation of processes relatively evenly.

As to the limitation of assigning each only to a group of slave processes assigned to the static partition to which the tuple is mapped, the reference of Passera teaches of the limitation in col. 9, lines 10-24, for the reason to distribute the computations evenly among the processes.

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 4,855,903, filed January 22, 1998, issued to Carleton et al.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Majid A. Banankhah** whose telephone number is (571) 272-3770. The examiner can normally be reached on Monday – Thursday, 8:00 AM – 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on (571) 272-3756.

Information regarding the status of an application may be obtained from the patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

Majid A. Banankhah

9/18/04


MAJID A. BANANKHAH
PRIMARY EXAMINER